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OFFICE OF PETITIONS

219
PATENT
DON01 P-872

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group : 2872
Examiner : M. Sikder
Applicants : Kenneth Schofield et al.
Serial No. : 09/227,344
Filing Date : January 8, 1999
For : VEHICLE CONTROL SYSTEM AND METHOD
Batch No. : A76

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

Dear Sir:

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)

The above-identified application has become abandoned for failure to file a timely and proper reply to the Notice of Allowance by the United States Patent and Trademark Office.

1. Petition fee. Applicant is other than a small entity. The fee of One Hundred Ten and No/100 Dollars (\$110.00) is enclosed.
2. The payment of the issue fee of One Thousand Two Hundred Forty and No/100 Dollars (\$1,240.00) in response to the above-identified Notice of Allowance is enclosed.
3. Since this utility application was filed on or after June 8, 1995, a Terminal Disclaimer is not required.
4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

07/19/2001 LGIBBS 00000002 09227344

03 FC:140 110.00 OP

Adjustment date: 07/25/2001 LGIBBS

07/19/2001 LGIBBS 00000002 09227344

03 FC:140 -110.00 OP

Repln. Ref: 07/25/2001 LGIBBS 0013091700

DOC#220190 Name/Number:09227344

FC: 704 \$110.00 CR

Applicants : Kenneth (NMI) Schofield et al.
Serial No. : 09/227,344
Page : 2

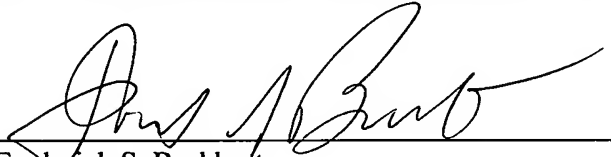
5. Alternatively, should the above-identified petition not be granted, please consider this a petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b). Please charge the petition fee of One Thousand Two Hundred Forty and No/100 Dollars (\$1,240.00) (37 CFR 1.17(m)) to Deposit Account No. 22-0190. The entire delay in filing the required reply from the due date for the required reply until the filing of the grantable petition under 37 CFR 1.137(b) was unintentional.

Respectfully submitted,

KENNETH SCHOFIELD ET AL.

By: Van Dyke, Gardner, Linn & Burkhart, LLP

Date: July 17, 2001.



Frederick S. Burkhart
Registration No. 29 288
2851 Charlevoix Drive, S.E., Suite 207
Post Office Box 888695
Grand Rapids, Michigan 49588-8695
(616) 975-5500

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Dear Sir:

SHOWING OF THE CAUSE OF UNAVOIDABLE DELAY
(37 CFR 1.137(a))

The present application went abandoned for failure to pay the issue fee within three (3) months. It is submitted that the entire delay was the result of actions by the United States Patent and Trademark Office and was unavoidable on behalf of Applicants for the following reasons:

As set forth in the Declaration of Frederick S. Burkhart, attached hereto, a response to the outstanding Office Action was filed on December 21, 2000, after this firm was assigned responsibility for the prosecution of the patent application. The application was previously handled by the firm of Fitzpatrick, Cella, Harper & Scinto. A Power of Attorney by Assignee of the Entire Interest (Revocation of Prior Powers) was filed concurrently with the response naming this firm to prosecute the application and transact all business with the Patent and Trademark Office. The undersigned was contacted by the Examiner soon after filing the response which led the undersigned to believe that the Power of Attorney had been properly vested in this firm. The undersigned responded to suggestions by the Examiner as to how the application may be put into a condition for allowance by submitting, via E-Mail, proposed claim amendments to the Examiner. The undersigned did not hear further from the Patent

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Office until a Notice of Abandonment, mailed by the Patent Office on May 23, 2001, was forwarded from the firm of Fitzpatrick, Cella, Harper & Scinto to this firm.

The attached Declaration of Howard S. Greenberg provides evidence that the Notice of Allowance and Issue Fee Due was not received by the Firm of Fitzpatrick, Cella, Harper and Scinto, notwithstanding that the firm of Fitzpatrick, Cella, Harper & Scinto is listed as the addressee on the Notice of Allowance, copy attached.

The Notice of Abandonment was sent to the Fitzpatrick, Cella, Harper & Scinto firm. The Fitzpatrick, Cella, Harper & Scinto firm promptly forwarded the Notice of Abandonment to this firm. It follows that, had the Fitzpatrick, Cella, Harper & Scinto firm received the Notice of Allowance, they would also have forwarded that document to this firm.

The Patent Office did not notify the undersigned that the Power of Attorney was not accepted until after the case had gone abandoned. Indeed, the attached copy of the content of the Patent Office prosecution history shows that the Power of Attorney (P/A) filed December 21, 2000, was not entered in the file until June 13, 2001, almost six (6) months later. Had the Patent Office promptly notified the undersigned that that the Power of Attorney had not been accepted, the undersigned would have had the opportunity to inquire into the status of the application and would have been alerted to the fact that correspondence from the Patent Office was not being forwarded to this firm. It is unexplainable why the Patent and Trademark Office did not notify Applicants for almost six (6) months after Applicants had submitted a Power of Attorney that the Power of Attorney was not accepted. Furthermore, the interchange between the Examiner and the undersigned caused the undersigned to believe that the Power of Attorney had been accepted because the Examiner is only allowed to initiate contact with the attorney of record.

The failure to pay the issue fee timely was unavoidable because of the failure of either firm to receive the Notice of Allowance combined with the Examiner acting promptly to Applicants' response and the delay in the Patent Office notifying the undersigned of the defect in the Power of Attorney. Indeed, the Notice of Allowance, which was not received, was dated less than one (1) month from the mailing date of Applicants' response, an unusually brief turnaround. In contrast, the almost six (6) month delay in notifying the undersigned of the defect in the Power of Attorney was unduly long. Had the undersigned

Applicants : Kenneth (NMI) Schofield et al.
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received the notification of the defect in the Power of Attorney in a timely fashion, it would have prompted action by the undersigned. This would likely have uncovered the missing Notice of Allowance prior to abandonment.

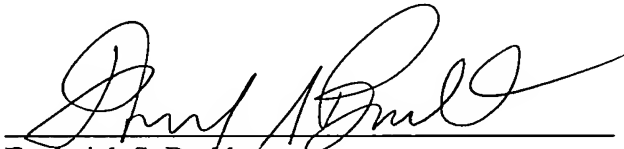
For the above-identified reasons, it is requested that the delay in paying the issue fee be deemed unavoidable. In the alternative, if it is found that the delay was not unavoidable, it is requested that the fee under 37 CFR 1.17(m) be deducted from Deposit Account 22-0190 of this firm in order to revive the patent application under 37 CFR 1.137(b) as the delay being unintentional.

Respectfully submitted,

KENNETH SCHOFIELD ET AL.

By: Van Dyke, Gardner, Linn & Burkhart, LLP

Date: July 17, 2001.



Frederick S. Burkhart
Registration No. 29 288
2851 Charlevoix Drive, S.E., Suite 207
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Filing Date : January 8, 1999
For : VEHICLE CONTROL SYSTEM AND METHOD

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

DECLARATION OF HOWARD S. GREENBERG
UNDER M.P.E.P. § 711.03

Sir:

I, Howard S. Greenberg, declare and say that:

1. I am Docketing Manager of the law firm of Fitzpatrick, Cella, Harper & Scinto, 30 Rockefeller Plaza, New York, New York 10112-3801. My responsibilities include docketing the receipt of documents from the Patent and Trademark Office, maintaining records of such documents and periods for response thereunder. All communications from the Patent and Trademark Office are directed to me immediately upon receipt within the firm.

2. When I receive a communication from the Patent and Trademark Office, I calculate and enter in a computerized Master Docket, the date upon which a response to such Patent and Trademark Office communication is due. I then forward the communication to an attorney within the firm who is responsible for handling the matter.

3. I understand in the above-identified application, a Notice of Abandonment bearing a mailing date of May 23, 2001 stated that the subject application was abandoned due to Applicant's failure to pay the issue fee in response to a Notice of Allowance reportedly mailed on January 17, 2001. However, as reflected in the attached printout from the Master Docket, our records indicate that no Notice of Allowance was received by our office.

4. Our records indicate that responsibility for the file was transferred to a different firm and it is my understanding that the new firm filed a response to the second office action resulting in the above-referenced Notice of Allowance. After a search of the docket records, I conclude that the Notice of Allowance reportedly mailed on January 17, 2001 was never received by our firm.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date: Jul-1 17, 2001


Howard S. Greenberg

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Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

Dear Sir:

DECLARATION OF FREDERICK S. BURKHART
UNDER M.P.E.P. § 711.03

I, Frederick S. Burkhardt, declare and say that:

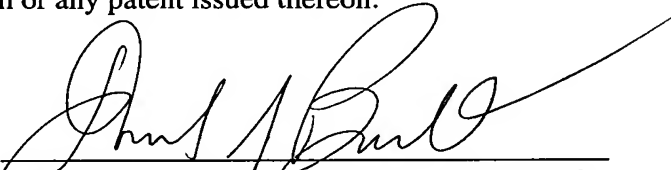
1. I am an attorney with the law firm of Van Dyke, Gardner, Linn & Burkhardt, LLP. I am presently responsible for prosecuting the above-identified patent application.
2. I was instructed by the client, Donnelly Corporation, to assume responsibility for prosecuting this patent application within the statutory time for responding to an outstanding Office Action. The prior firm responsible for the application was Fitzpatrick, Cella, Harper & Scinto.
3. I filed a response to the outstanding action and a POWER OF ATTORNEY BY ASSIGNEE OF ENTIRE INTEREST (REVOCATION OF PRIOR POWERS) on December 21, 2000.
4. I was contacted by the Patent Examiner soon after filing a response to the outstanding action on January 12, 2001. As a result of the discussion, I sent via E-Mail proposed claim amendments to the Examiner.

Applicants : Kenneth Schofield et al.
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5. I received a copy of a Notice of Abandonment, which was mailed on May 23, 2001, to the firm of Fitzpatrick, Cella, Harper & Scinto, copy attached. A copy of the Notice of Abandonment was forwarded to this firm by the law firm of Fitzpatrick, Cella, Harper & Scinto.
6. I received a Notice Regarding Power of Attorney mailed June 14, 2001, informing me, for the first time, that the Power of Attorney was not accepted, copy attached. The Notice Regarding Power of Attorney did not arrive at this firm until after receipt of the Notice of Abandonment.
7. I obtained copies of the relevant portions of the Patent Office records of the prosecution history of the above-identified patent application after receiving the Notice of Abandonment. The Patent Office records show that the Notice of Allowance and Issue Fee Due, copy attached, was addressed to the law firm of Fitzpatrick, Cella, Harper & Scinto, not to this firm. Furthermore, the copy of the Notice of Allowance and Issue Fee Due form in the Patent Office records does not include a second page of the form.

I hereby declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and, further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Dated: July 17, 2001.



Frederick S. Burkhart, Registration No. 29 288
Van Dyke, Gardner, Linn & Burkhart, LLP
2851 Charlevoix Drive, S.E., Suite 207
Post Office Box 888695
Grand Rapids, Michigan 49588-8695
(616) 975-5500

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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
 Address: COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/227,344	01/08/99	SCHOFIELD	K 690.2200-PCT

005514 7542/0523
 FITZPATRICK CELLA HARPER & SCINTO
 30 ROCKEFELLER PLAZA
 NEW YORK NY 10112

103 (BSCH)
 690.2200

transferred

EXAMINER

SIKDER, M

ART UNIT

PAPER NUMBER

2872

15

DATE MAILED: 05/23/01

NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper response to the Office letter mailed on _____.
- ☐ A response (with a Certificate of Mailing or Transmission of _____) was received on _____, which is after the expiration of the period for response (including a total extension of time of _____ month(s)) which expired on _____.
- ☐ A proposed response was received on _____, but it does not constitute a proper response to the final rejection.
- (A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).)
- ☐ No response has been received.

☒ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

- ☐ The issue fee (with a Certificate of Mailing or Transmission of _____) was received on _____.
- ☐ The submitted issue fee of \$ _____ is insufficient. The issue fee required by 37 CFR 1.18 is \$ _____.
- ☒ The issue fee has not been received.

☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of _____) were received on _____.
- ☐ The proposed new formal drawings filed _____ are not acceptable.
- ☐ No proposed new formal drawings have been received.

- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on _____.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

ABANDONMENT
 CONTACT PERSON IS:
 TOM HAWKINS
 305-8380

1-8-2001

00001-872



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF PETITIONS

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/227,344	01/08/1999	KENNETH SCHOFIELD	690.2200-PCT

CONFIRMATION NO. 8430



OC000000006180196

FREDERICK S. BURKHART
VAN DYKE, GARDNER, LION & BURKHART, LLP
2851 CHARLEVOIX DRIVE, SE SUITE 207
PO BOX 888695
GRAND RAPIDS, MI 49588-8695

Date Mailed: 06/14/2001

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/13/2001. The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.
- The person signing for the assignee has omitted their empowerment to sign on behalf of the assignee.
- The revocation is not signed by the applicant, the assignee of the entire interest, or one particular principal attorney having the authority to revoke.



Customer Service Center

Initial Patent Examination Division (703) 308-1202

NEW ATTORNEY/AGENT COPY

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JUN 18 2001

VANDYKE, GARDNER
LINN & BURKHART, L.L.P.

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OFFICE OF PETITIONS

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

003514 MMC1/0117
 FITZPATRICK CELLA HARPER & SCINTO
 30 ROCKEFELLER PLAZA
 NEW YORK NY 10112

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
09/227,344	01/08/99	015	SIKDER, M	2872 01/17/01
First Named Applicant: SCHOFIELD.				
35 USC 154(b) term ext. = 0 Days.				
TITLE OF INVENTION: AUTOMATIC REARVIEW MIRROR, VEHICLE LIGHTING CONTROL AND VEHICLE INTERIOR MONITORING SYSTEM USING A PHOTOSENSOR ARRAY.				

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
0	690.2200-PCT	359-601.000	476 UTILITY	NO	\$1240.00	04/17/01

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:**I. Review the SMALL ENTITY status shown above.**

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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Dear Sir:

CERTIFICATE OF HAND DELIVERY

The following documents have been hand-delivered to the United States Patent and Trademark Office:

1. Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a) (in duplicate);
2. Check in the amount of One Hundred Ten and No/100 Dollars (\$110.00) for the Petition fee;
3. Notice of Allowance Part B-Issue Fee Transmittal (in duplicate);
4. Check in the amount of One Thousand Two Hundred Forty and No/100 Dollars (\$1,240.00) for the issue fee;
5. Check in the amount of Thirty and No/100 Dollars (30.00) for the advanced order copies;
6. Showing of the Cause of Unavoidable Delay (37 CFR 1.137(a));
7. Declaration of Frederick S. Burkhart Under M.P.E.P. § 711.03, along with a copy of the Notice of Abandonment and Notice Regarding Power of Attorney; and
8. Declaration of Howard S. Greenberg Under M.P.E.P. § 711.03.

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